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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,304	01/17/2002	Masood Seyed Mortazavi	SUN1P849/P7352	8384
22434	7590	03/03/2005	EXAMINER	
BEYER WEAVER & THOMAS LLP P.O. BOX 70250 OAKLAND, CA 94612-0250			KHATRI, ANIL	
			ART UNIT	PAPER NUMBER
			2124	

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,304

Applicant(s)

MORTAZAVI, MASOOD SEYED

Examiner

Anil Khatri

Art Unit

2124

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/2/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-30 are rejected under 35 U.S.C. 102(a) as being anticipated by *Sharma et al*
WO 02/091178 A2.

Regarding claims 1, 14 and 30

Sharma et al teaches,

a first container based software component first container based software component being an upgraded version of a second container based software component (see figure 5, page 13, 3rd paragraph, “the EJB client... resource manager”,

a container suitable for interaction with at least said first container based software component, and (page 14, first paragraph, “the EJB container 552... J2EE server process”);

an online upgrade system capable of operating to facilitate online upgrading of second container based software component to first container based software component (see abstract).

Regarding claims 2, 5, 6, 7, 9-11,15-16, 18-19 and 24

Sharma et al teaches,

an online upgrade module (see abstract),

an online upgrade control module capable of:

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interacting with said online upgrade package to facilitate said online upgrading (see figures 3, 5-8); and

interacting with an upgrade management entity to allow control or monitoring of said online upgrading operations by said upgrade management entity (page 14, 3rd paragraph, “the RSM uses the... multiple transactions”).

Regarding claim 3

Sharma et al teaches,

wherein control or monitoring of online upgrading operations can be done at least partially by a human being (see abstract).

Regarding claim 4, 25, 26, 28 and 29

Sharma et al teaches,

human being is an application developer or a system administrator (figure 5).

Regarding claim 7 and 17

Sharma et al teaches,

First container based software component is an enterprise java beans II application (figure 3)

Regarding claim 12, 20 and 27

Sharma et al teaches,

An upgrade prepare stage (page 8, 1st paragraph, line 6, “upgrading... present invention”);

An pre-upgrade stage (page 10, 5th paragraph, “the managed... upgrade and migration”);

An upgrade stage (page 10, 5th paragraph, “the managed... upgrade and migration”); and

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A post upgrade stage (page 16, 2nd paragraph, “as previously...during the upgrade”).

Regarding claim 13

Sharma et al teaches,

Two or more stages further comprises of at least one a commit stage or a rollback stage (figure 4, page 12, 3rd paragraph, “state management types... replicate state 410”, page, 14, last paragraph, “the RSM can issue... multiple transactions”).

Regarding claims 21-23

Sharma et al teaches,

Method further comprises a commit state (figure 4, page 12, 3rd paragraph, “state management types... replicate state 410);

Commit state includes:

Draining an older version of an application program (page 17, 1st paragraph, “The J2EE server...in operation 711”).

Performing one or more callbacks (page 12, first paragraph, “during application ...state partition”) and

Unloading older version of application program (page 12, 4th paragraph, “a SMU is ... shutdown or migration”) and

Conveying information about assuring, performing or unloading to management entity (page 12, last paragraph, “the RSM... replicated state server”, page 14, first paragraph, “the EJB container... server process”).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anil Khatri, Primary Examiner whose telephone number is 571-272-3725. The examiner can normally be reached on M-F 8:30-5:00 PM.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ANIL KHATRI
PRIMARY EXAMINER